

JUDGE ENGELMAYER

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Southern District of New York
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11 CIV 6828

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

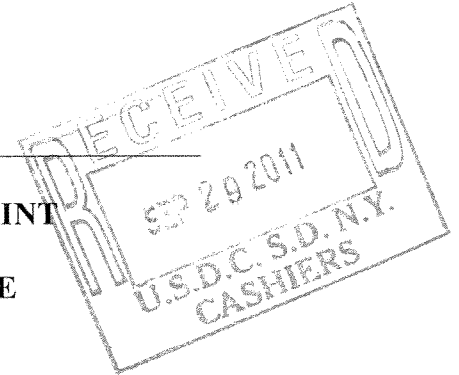
MARTIN J. RAYNES,

Defendant.

11 Civ. _____

COMPLAINT

ECF CASE



Plaintiff United States of America (the “United States”), by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, herein alleges upon information and belief for its complaint as follows:

INTRODUCTION

1. This is a civil action brought by plaintiff the United States to collect the outstanding federal income tax liabilities of defendant Martin J. Raynes (“defendant” or “Raynes”) for the 1998, 2000, 2002, 2003, 2004, 2008, and 2009 tax years (“TY”).
2. This action has been authorized and requested by a delegate of the Secretary of the Treasury, and is brought at the direction of the Attorney General of the United States pursuant to the provisions of 26 U.S.C. § 7401, as amended.

JURISDICTION, VENUE, AND PARTIES

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1340, 1345 and 26 U.S.C. § 7402(a).

4. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §§ 1391(b) and 1396, because, on information and belief, Raynes resided within the Southern District of New York during the tax years in question, the tax liability giving rise to this action accrued while Raynes resided in the Southern District of New York, and Raynes filed his tax returns in or from the Southern District of New York.

5. On information and belief, Raynes is a natural person with his primary residence at 35 East 76th Street, New York, NY 10021.

CLAIM FOR RELIEF – REDUCING TAX ASSESSMENTS TO JUDGMENT

6. The allegations in paragraphs 1 through 5 are repeated and realleged as though set forth fully herein.

7. As of September 30, 2011, Raynes was indebted to the United States for unpaid federal income taxes for TY 1998, 2002, 2003, 2004, 2008, and 2009 in the total amount, including penalties and interest (computed to September 30, 2011), of \$5,738,261.85. This amount comprises the following:

TY	Date Tax Assessed	Unpaid Balance of Assessments	Accrued Penalties and Interest	Total Amount Owed
1998	June 7, 1999	\$1,165,116.11	\$1,480,452.51	\$2,645,568.62
2000	Mar. 25, 2002	\$65,308.08	\$59,465.41	\$124,773.49
2002	Sept. 29, 2003	\$1,995,052.84	\$925,020.02	\$2,920,072.86
2003	Nov. 8, 2004	\$15,710.83	\$6,826.38	\$22,537.21
2004	Nov. 21, 2005	\$18,098.71	\$6,594.44	\$24,693.15
2008	Mar. 1, 2010	\$500.07	\$31.40	\$531.47
2009	Nov. 15, 2010	\$0	\$85.05	\$85.05
Gr. Tot.				\$5,738,261.85

8. Raynes filed his TY 1998 return on April 15, 1999, including payment to the Internal Revenue Service ("IRS") of only \$19,285.00 of his \$2,369,397.00 tax liability as assessed on June 7, 1999. On June 7, 1999, Raynes was also assessed \$688.00 in penalties for not pre-paying his taxes; \$23,501.12 in penalties for late payment of his taxes; and \$27,456.08 in interest. On April 3, 2000, Raynes was assessed \$28.00 in fees arising out of the IRS's collection efforts. Between 2000 and 2001, the IRS levied payments from Raynes totaling \$28,311.14, and on March 19, 2011, Raynes made a payment of \$293.43 to the IRS. On August 13, 2001, and March 29, 2004, respectively, the IRS abated \$372,881.00 and \$1,322,838.00 of Raynes's liability for TY 1998. On December 15, 2008, Raynes was assessed \$488,769.25 in penalties for late payment of his taxes. On April 15, 2007, \$4.39 in interest and a \$25.61 credit was transferred to Raynes's tax liability for TY 1998 due to Raynes's over payment of his tax liability for TY 2006. On April 14, 2011, the IRS levied payment of \$1,244.77 from Raynes. On September 12, 2011, Raynes was assessed \$160 in fees arising out of the IRS's collection efforts. Thus, the unpaid balance of Raynes's assessments for TY 1998 totals \$1,165,116.11. In addition, pursuant to 26 U.S.C. § 6601, \$1,480,452.51 in interest has accrued on Raynes's TY 1998 liability through September 30, 2011. Accordingly, Raynes's outstanding tax liability for TY 1998, through September 30, 2011, is \$2,645,568.62.

9. Raynes's TY 2000 income tax return was due, pursuant to extensions, on October 15, 2001. Raynes filed his return on February 17, 2002, including payment to the IRS of only \$1,000.00 of his \$59,141.00 tax liability. On March 25, 2002, Raynes was assessed \$3,074.00 in penalties for not pre-paying his taxes; and \$4,013.08 in penalties for late payment of his taxes. On July 21, 2003, Raynes was assessed \$80.00 in fees arising out of the IRS's collection efforts. Thus, the unpaid balance of Raynes's assessments for TY 2000 totals

\$65,308.08. In addition, pursuant to 26 U.S.C. § 6601, \$44,930.51 in interest has accrued on Raynes's TY 2000 liability through September 30, 2011. An additional \$14,534.90 in penalties has also accrued on Raynes's TY 2000 liability through September 20, 2011. Accordingly, Raynes's outstanding tax liability for TY 2000, through September 30, 2011, is \$124,773.49.

10. Raynes's TY 2002 income tax return was due, pursuant to extensions, on August 15, 2003. Raynes filed his return on August 19, 2003, and did not include any payment with his return. On September 29, 2003, Raynes was assessed \$1,566,972.00 in tax liability; \$47,009.16 in penalties for late payment of his taxes; and \$36,257.84 in interest. On July 13, 2009, Raynes was assessed \$80.00 in fees arising out of the IRS's collection efforts. On October 18, 2010, Raynes was assessed an additional \$344,733.84 in penalties for late payment of his taxes. Thus, the unpaid balance of Raynes's assessments for TY 2002 totals \$1,995,052.84. In addition, pursuant to 26 U.S.C. § 6601, \$925,020.02 in interest has accrued on Raynes's TY 2002 liability through September 30, 2011. Accordingly, Raynes's outstanding tax liability for TY 2002, through September 30, 2011, is \$2,920,072.86.

11. Raynes's TY 2003 income tax return was due, pursuant to an extension, on August 15, 2004. Raynes filed his return on October 12, 2004, and did not include any payment with his return. On November 8, 2004, Raynes was assessed \$12,006.00 in tax liability; \$310.00 in penalties for not pre-paying his taxes; \$420.21 in penalties for late payment of his taxes; and \$313.33 in interest. On February 20, 2006, Raynes was assessed \$80.00 in fees arising out of the IRS's collection efforts. On October 15, 2007, Raynes was assessed an additional \$2,581.29 in penalties for late payment of his taxes. Thus, the unpaid balance of Raynes's assessments for TY 2003 totals \$15,710.83. In addition, pursuant to 26 U.S.C. § 6601, \$6,826.38 in interest has accrued on Raynes's TY 2003 liability through September 30, 2011.

Accordingly, Raynes's outstanding tax liability for TY 2003, through September 30, 2011, is \$22,537.21.

12. Raynes's TY 2004 income tax return was due, pursuant to extensions, on October 15, 2005. Raynes filed his return on October 20, 2005, and did not include any payment with his return. On November 21, 2005, Raynes was assessed \$13,752.00 in tax liability; \$382.00 in penalties for not pre-paying his taxes; \$550.08 in penalties for late payment of his taxes; and \$526.71 in interest. On October 15, 2007, Raynes was assessed an additional \$2,887.92 in penalties for late payment of his taxes. Thus, the unpaid balance of Raynes's assessments for TY 2004 totals \$18,098.71. In addition, pursuant to 26 U.S.C. § 6601, \$6,594.44 in interest has accrued on Raynes's TY 2004 liability through September 30, 2011. Accordingly, Raynes's outstanding tax liability for TY 2004, through September 30, 2011, is \$24,693.15.

13. Raynes's TY 2008 income tax return was due, pursuant to an extension, on October 15, 2009. Raynes filed his return on October 14, 2009, including payment the IRS of \$14,207.00, which was greater than his \$13,925.00 tax liability. On March 1, 2010, Raynes was assessed \$487.37 in penalties for late payment of his taxes and \$294.70 in interest. Thus, the unpaid balance of Raynes's assessments for TY 2008 totals \$500.07. In addition, pursuant to 26 U.S.C. § 6601, \$31.40 in interest has accrued on Raynes's TY 2008 liability through September 30, 2011. Accordingly, Raynes's outstanding tax liability for TY 2008, through September 30, 2011, is \$531.47.

14. Raynes's TY 2009 income tax return was due, pursuant to an extension, on October 15, 2010. Raynes filed his return on October 12, 2010, and submitted payment to the IRS of \$10,000.00 in addition to the \$5,000.00 payment Raynes had made to the IRS on April

15, 2010. On November 15, 2010, Raynes was assessed \$83,916.00 in tax liability; \$370.00 in penalties for not pre-paying his taxes; \$2,712.06 in penalties for late payment of his taxes; and \$1,835.19 in interest. Between November 2010 and January 2011 Raynes made payments to the IRS totaling \$75,000.00. On February 14, 2011, Raynes was assessed \$918.32 in penalties for late payment of tax and \$248.43 in interest. Thus, there is no unpaid balance on Raynes's assessments for TY 2009. Pursuant to 26 U.S.C. § 6601, however, \$85.05 in interest has accrued on Raynes's TY 2009 liability through September 30, 2011. Accordingly, Raynes's outstanding tax liability for TY 2009, through September 30, 2011, is \$85.05.

15. Raynes's income tax returns for TY 2008 and 2009 was filed listing his address as 800 Westchester Ave, Apt 5432, Rye Brook, New York 10573.

16. On March 21, 2000, the IRS filed a Notice of Federal Tax Lien in Suffolk County, New York, against Raynes for TY 1998 in the amount of \$2,401,757.20. A true and correct copy of this lien is attached hereto as Exhibit A. The IRS released that lien on July 7, 2009, and on August 23, 2001, re-filed a Notice of Federal Tax Lien in Suffolk County, New York, against Raynes for TY 1998 in the amount of \$1,164,956.11. A true and correct copy of this lien is attached hereto as Exhibit B.

17. On March 10, 2000, the IRS filed a Notice of Federal Tax Lien in New York County, New York, against Raynes for TY 1998 in the amount of \$2,401,757.20. A true and correct copy of this lien is attached hereto as Exhibit C. The IRS released that lien on July 7, 2009, and on August 26, 2011, re-filed a Notice of Federal Tax Lien in New York County, New York, against Raynes for TY 1998 in the amount of \$1,164,956.11. A true and correct copy of this lien is attached hereto as Exhibit D.

18. On August 8, 2003, the IRS filed a Notice of Federal Tax Lien in New York County, New York, against Raynes for TY 2000 in the amount of \$65,228.08. A true and correct copy of this lien is attached hereto as Exhibit E.

19. On July 20, 2006, the IRS filed a Notice of Federal Tax Lien in New York County, New York, against Raynes for TY 2003 in the amount of \$13,049.54. A true and correct copy of this lien is attached hereto as Exhibit F.

20. On June 29, 2009, the IRS filed a Notice of Federal Tax Lien in New York County, New York, against Raynes for TY 2002 in the amount of \$1,650,239.00. A true and correct copy of this lien is attached hereto as Exhibit G.

21. The assessments for the tax years at issue were made respectively on June 7, 1999 (TY 1998), March 25, 2002 (TY 2001), September 29, 2003 (TY 2002), November 8, 2004 (TY 2003), November 21, 2005 (TY 2004), March 1, 2010 (TY 2008), and November 15, 2010 (TY 2009). The collection period is limited to the statutory 10-year period under 26 U.S.C. § 6502 from the date of the assessment. However, the limitations period was suspended from August 14, 2003, to December 8, 2005 (847 days) due to Raynes's submission of an Offer in Compromise application. Accordingly, the earliest collection period, for TY 1998, expires on October 2, 2011.

22. By this action, the United States seeks to collect the aforementioned tax assessments.

WHEREFORE, plaintiff the United States demands judgment:

(a) awarding the United States the amount of Raynes's assessed federal tax liabilities, which as of September 30, 2011, total \$5,738,261.85 (including taxes, interest, fees, and statutory additions) plus interest and statutory additions accruing thereon from September 30, 2011, according to law, less any payment made; and

(b) granting the United States its costs, disbursements, and such further relief against defendant as the Court may deem just and proper.

Dated: New York, New York
September 29, 2011

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Southern District of New York
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By:



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